

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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TUNECORE, INC.,

Plaintiff,

- against -

FARYAL KHAN-THOMPSON and AUDIO AND  
VIDEO LABS, INC. d/b/a CD BABY,

Defendants.  
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: Case No. 1:23-cv-08721-AMD-  
: RML  
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: **STIPULATED ORDER FOR**  
: **TEMPORARY RESTRAINTS AS**  
: **TO CD BABY**  
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**THIS MATTER** having come before the Court on the joint motion by plaintiff TuneCore, Inc. (“TuneCore”) (Eric W. Moran, Esq., Epstein Becker & Green, P.C., appearing), and defendant Audio and Video Labs, Inc. d/b/a CD Baby (“CD Baby”) (Lincoln O. Bisbee, Esq., Morgan, Lewis & Bockius LLP, appearing) (TuneCore and CD Baby are hereinafter collectively referred to as the “Parties”); and United States Magistrate Judge Levy having convened a status conference on January 9, 2024, and having directed that “the parties will meet and confer to provide discovery needed for all parties to participate in meaningful mediation or settlement conference,” ECF Minute Entry, dated January 9, 2024; and the Parties having undertaken to so confer; and Judge Levy having further convened a teleconference on February 5, 2024; and having directed the Parties to further confer on the agreement on pre-settlement discovery and dates for a settlement conference, ECF Minute Entry, dated February 5, 2024; and the Parties having undertaken to so confer; and for good cause shown; it is hereby

**ORDERED** that defendant CD Baby is temporarily enjoined until May 1, 2024, from knowingly disseminating and/or using any of TuneCore’s confidential information, including but not limited to the documents and electronically stored information (“ESI”) identified on Exhibit F to the declaration of Kevin Bodenheimer, dated November 27, 2023, and the information contained

therein (collectively, “Confidential Information”), except that preservation and access to electronically stored information, which may or may not include TuneCore’s Confidential Information, by CD Baby’s counsel, by any third-party experts, and/or at the direction of CD Baby’s counsel or any third party experts as part of the representation of CD Baby in this matter shall not be deemed dissemination and/or use of any TuneCore Confidential Information; and it is further

**ORDERED** that defendant CD Baby shall immediately take reasonable steps to identify and ensure against the dissemination and/or use of any of TuneCore’s Confidential Information; and it is further

**ORDERED**, that the Parties shall continue to confer regarding potential agreement on the remaining issues, including terms related to TuneCore’s request for (a) further injunctive relief; (b) an accounting of any Confidential Information stored on CD Baby’s network, if any; (c) a forensic examination of CD Baby’s network to assess use and dissemination of the Confidential Information by CD Baby, if any; and (d) the return or forensic removal of Confidential Information found on CD Baby’s network, if any.

s/Ann M. Donnelly

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Hon. Ann M. Donnelly, USDJ